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February 23, 2004

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

*Re: Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems – ET Docket No. 00-258*

*Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands – WT Docket No. 02-353*

*Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands – IB Docket No. 02-364*

**NOTICE OF ORAL EX PARTE COMMUNICATION**

Dear Ms. Dortch:

On Friday, February 20, 2004, Neale Hightower, Sr., Executive Director – Wireless and Exploratory Development, BellSouth Science and Technology, and the undersigned, each had separate conversations with Stephen T. Zak of the Wireless Bureau concerning proposals pending in the *Third Notice of Proposed Rulemaking in ET Docket No. 00-258* for relocating Multipoint Distribution Service (“MDS”) licensees from the 2150-2162 MHz band as part of the Commission’s efforts to free spectrum for Advanced Wireless Services (“AWS”). We noted that any replacement spectrum chosen by the Commission must be equivalent to the technical characteristics of the 2150-2162 MHz band and enumerated the following points:

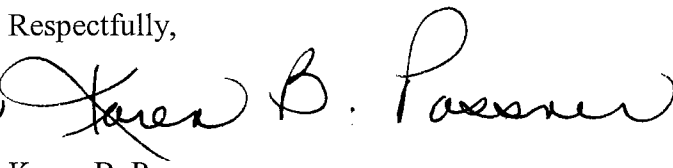
1. The center frequency should be at or below the current 2.1 GHz allocation. Frequencies significantly above this range provide less coverage due to propagation differences. We also need a band where equipment components are readily available in volume (i.e., these are the key reasons why an allocation at 3.5 GHz will not work).

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2. The replacement spectrum should be in minimum 5 MHz blocks, preferably adjacent. If not adjacent, in the same frequency "range" or duplex with the same spacing as the band in which the band's blocks are assigned (cost of equipment issue).
3. We should face the same or fewer restrictions on height, EIRP, patterns, coordination, etc. The plan needs to consider the practical ability to coordinate with other assignees.
4. Functionally, the same geographic area should be covered by the new allocation (i.e., should not be carved into smaller blocks).
5. There should be no additional restrictions on us regarding adjacent band interference due to the presence of other carriers:
  - a. there should be no additional restrictions on our emissions, and
  - b. there should be no significant interfering emissions from other adjacent operators (similar to WCS/SDARS situation).
6. We should have the ability to operate 2-way systems without further restrictions than at present.

Should you have any questions regarding this matter, please contact the undersigned.

Respectfully,

*OK for*  


Karen B. Possner

cc: Stephen T. Zak